

REFERENCE TITLE: **homeowners' associations; voluntary participation**

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2625

Introduced by
Representative Gowan

AN ACT

AMENDING SECTIONS 33-1801 AND 33-1802, ARIZONA REVISED STATUTES; RELATING TO PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 33-1801, Arizona Revised Statutes, is amended to
3 read:

4 33-1801. Applicability; exemption; opt out; recorded document

5 A. This chapter applies to all planned communities.

6 B. Notwithstanding any provisions in the community documents, this
7 chapter does not apply to any school that receives monies from this state,
8 including a charter school, and a school is exempt from regulation or any
9 enforcement action by any homeowners' association that is subject to this
10 chapter. With the exception of home schools as defined in section 15-802,
11 schools shall not be established within the living units of a homeowners'
12 association. The homeowners' association may enter into a contractual
13 agreement with a school district or charter school to allow use of the
14 homeowners' association's common areas by the school district or charter
15 school.

16 C. This chapter does not apply to timeshare plans or associations that
17 are subject to chapter 20 of this title.

18 D. NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, AN OWNER
19 MAY OPT OUT OF THE MANDATORY MEMBERSHIP IN THE PLANNED COMMUNITY BY RECORDING
20 IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY IN WHICH THE PROPERTY IS
21 LOCATED A DOCUMENT THAT STATES THE OWNER'S INTENTION TO OPT OUT. THE
22 RECORDED DOCUMENT IS VALID ONLY FOR THE NAMED OWNER AND DOES NOT SURVIVE THE
23 CONVEYANCE OF THE PROPERTY TO ANOTHER OWNER.

24 Sec. 2. Section 33-1802, Arizona Revised Statutes, is amended to read:

25 33-1802. Definitions

26 In this chapter and in the community documents, unless the context
27 otherwise requires:

28 1. "Association" means a nonprofit corporation or unincorporated
29 association of owners that is created pursuant to a declaration to own and
30 operate portions of a planned community and that has the power under the
31 declaration to assess association members to pay the costs and expenses
32 incurred in the performance of the association's obligations under the
33 declaration.

34 2. "Community documents" means the declaration, bylaws, articles of
35 incorporation, if any, and rules, if any.

36 3. "Declaration" means any instruments, however denominated, that
37 establish a planned community and any amendment to those instruments.

38 4. "Planned community" means a real estate development ~~which~~ THAT
39 includes real estate owned and operated by a nonprofit corporation or
40 unincorporated association of owners that is created for the purpose of
41 managing, maintaining or improving the property and ~~in~~ FOR which the
42 **COMMUNITY DOCUMENTS PROVIDE THAT THE** owners of separately owned lots, parcels
43 or units are mandatory members and are required to pay assessments to the
44 association for these purposes. Planned community does not include a
45 timeshare plan or a timeshare association that is governed by chapter 20 of
46 this title.